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BOOK REVIEWS

HANDBOOK OF THE LAW OF WILLS, by George E. Gardner. Second edition, by Walter T. Dunmore. (St. Paul: West Publishing Company, 1916, pp. xiii, 641.)

Professor Gardner's excellent treatise on the law of wills, published in the Hornbook Series thirteen years ago, has (in the main) been admirably re-written and brought down to date by Professor Dunmore. The apportionment of space in an elementary book on a large subject always presents problems of great difficulty. Nearly one third of this volume is given to the construction of wills—a subject of undoubted importance but hardly one that would warrant so extended a discussion. Much of this should have been omitted as belonging to a book on real property. The editor, too, in various places in the book, invades the field of evidence to an extent that is at least unusual in an elementary book on wills. An excellent chapter on the probate of wills is found, but the book is absolutely silent (with the exception of a few incidental references) on the subject of executors and administrators. Indeed, in the index, "administrator" is not found. Under "executor" are found only three casual references, while the only reference to "personal representative" is concerned with the meaning of that term as a designation of the beneficiary in a will.

Perhaps the weakest part of the book is that dealing with the various incidents of the administration of estates. Just here are many problems of great difficulty and amazing practical importance to the practitioner. Thus, §§ 156-157 are not accurate as to the falling of void devises into the *residuum*. The charging of debts on realty at common law is poorly treated, scant heed being paid to the distinction between realty in the hands of the heir and that in the hands of the devisee, and between specialty debts and debts arising from simple contract. Undue compression is found in Chapter 20, containing twenty-five pages and dealing with the various heads of legacies, abatement, ademption, satisfaction, advancements, lapse and substitution, and the falling of lapsed and void gifts into the *residuum*. Much of this is unclear. A few extra pages of amplification and the use of tabular outlines here would have added greatly to the practical value of the book. Chapter 21, on the charging of legacies on land, and Chapter 22, on the payment of the testator's debts, are also somewhat obscure in parts.

In the first nine chapters of the book is found a splendid treatment of wills, in the limited scope of two hundred and sixty-six pages. The first chapter gives clearly the historical background of the subject, then distinguishes wills from other transactions that lie close to them, notably gifts *causa mortis* and deeds. This is well done, though gifts *causa mortis* might have been treated at somewhat greater length as to their legal incidents. Incorporation by reference (so often treated obscurely by writers and judges) is accurately and clearly outlined; and the author is to be congratulated on Chapter 4, dealing with the contract to make

a will, which he quite properly shows does not, in its essential nature, differ from other contracts. Testamentary capacity is developed with an unusual wealth of detail, particularly in connection with questions of evidence. Not so good is the chapter on mistake, fraud and undue influence. In connection with the first two of these, a brief distinction between fraud or mistake in the *factum* and fraud or mistake in the inducement would have added greatly to the author's clearness and accuracy. In Chapter 8, dealing with the execution of wills, the author is specially to be commended on the sanity with which many perplexing problems are treated and on his taking the liberal and progressive view of the statutory formalities necessary to the validity of a will. Examples of this last spirit are found on page 209, upholding the signing by another on behalf of a witness at the request of the witness, and on page 215, supporting the broad doctrine (sometimes called the doctrine of *Cunningham v. Cunningham*, 80 Minn. 180, 83 N. W. 58, 51 L. R. A. 642, 81 Am. St. Rep. 256) as to what constitutes a signing by a witness in the presence of the testator. Chapter 9, on the revocation and republication of wills, is also well done, though the definition of republication and the distinction between republication and revival are not altogether accurate. The discussion, however, of the most important problem under the revival of wills, the effect of the revocation of a revoking will, is one of the best in the book.

ARMISTEAD M. DOBIE.

BANKRUPTCY FORMS, ANNOTATED, 2nd ed., by Marshall S. Hagar and Thomas Alexander. (Albany: Matthew Bender & Company, 1916, pp. liv, 909.)

In addition to more than three hundred forms covering every need on that score, this volume includes a well indexed compilation of the Bankruptcy Act, the General Orders and the bankruptcy rules of all the most important districts, together with such a novel and convenient feature as a time table of procedure, showing the time allowed for the performance of various acts required in practice. Excellent editorial notes, very careful and complete annotations, cross references and accurate indexing render this easily the best work of its kind and well-nigh indispensable to the practitioner.

The first edition of this work was published shortly after the amendments of 1910 to the Bankruptcy Act, when the radical changes in the law were little understood and before the practice thereunder had become settled. Since that time much progress has been made in bankruptcy administration; the law has become better understood and appreciated and its machinery brought to work more smoothly; the Supreme Court has, in a number of notable decisions, cleared up many mooted questions and pointed the way to a broad interpretation of the statute. It is certain, therefore, that this edition will retain its value longer than ever before, instead of going rapidly out of date under constant changes in the law by amendment or interpretation.

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